

ESTTA Tracking number: **ESTTA200802**Filing date: **03/26/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	HDN Development Corporation
Granted to Date of previous extension	03/26/2008
Address	103 Foulk RoadSuite 206 Wilmington, DE 19803 UNITED STATES
Attorney information	William M. Bryner Kilpatrick Stockton LLP 1001 West Fourth Street Winston-Salem, NC 27101 UNITED STATES wbryner@kilpatrickstockton.com, lamiller@kilpatrickstockton.com

**Applicant Information**

Application No	77204480	Publication date	11/27/2007
Opposition Filing Date	03/26/2008	Opposition Period Ends	03/26/2008
Applicant	Rinehart, Kealani 20743 Big Rock Drive Malibu, CA 90265 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025.

All goods and services in the class are opposed, namely: Bathing suits, shoes, shirts, pants, sweat shirts, skirts, tank tops, undershirts, socks

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	939105	Application Date	08/02/1971
Registration Date	07/25/1972	Foreign Priority Date	NONE
Word Mark	KK		
Design Mark			
Description of	THE MARK COMPRISES, IN PART, A FANCIFUL REPRESENTATION OF		

Mark	THE LETTERING "KK."
Goods/Services	Class U100 (International Class 042). First use: First Use: 1953/07/01 First Use In Commerce: 1953/07/01 RESTAURANT SERVICES

U.S. Registration No.	2003276	Application Date	11/21/1995
Registration Date	09/24/1996	Foreign Priority Date	NONE
Word Mark	KK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1995/09/01 First Use In Commerce: 1995/09/01 clothing, namely sweatshirts, T-shirts[, caps]		

Attachments	72399012#TMSN.gif ( 1 page )( bytes ) 75022751#TMSN.gif ( 1 page )( bytes ) LOVE KK NOO.pdf ( 6 pages )(615416 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Laura Miller/
Name	Laura C. Miller
Date	03/26/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HDN DEVELOPMENT CORPORATION,	)	
	)	
Opposer,	)	Opposition No. _____
	)	
vs.	)	
	)	
KEALANI RINEHART,	)	Mark: LOVE KK
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer HDN Development Corporation (“Opposer”), a Kentucky corporation having a place of business at 103 Foulk Road, Suite 206, Wilmington, Delaware 19803, believes that it will be damaged by registration by Applicant Kealani Rinehart (“Applicant”) of the trademark “LOVE KK,” in block letters, for use in connection with “[b]athing suits, shoes, shirts, pants, sweat shirts, skirts, tank tops, undershirts, socks” in International Class 25, shown in U.S. Trademark App. Ser. No. 77/204,480 and published in the *Official Gazette* on November 27, 2007 (the “LOVE KK Mark”), and hereby opposes same.

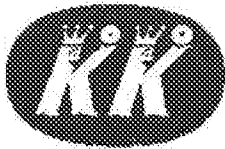

As grounds for this opposition to registration of the LOVE KK Mark, Opposer alleges the following:

1. For many years, Opposer, either itself or through its predecessors-in-interest, its affiliated entities, and/or licensees or its affiliated entities’ licensees (collectively referred to hereinafter as “Krispy Kreme”), has continuously used, and presently uses, various trademarks consisting of the designation “KK,” or incorporating the designation “KK” together with other word and/or design elements (collectively the “KK Marks”), in interstate commerce throughout

the United States in connection with the advertising, promotion, distribution and sale of goods and services in the fields of doughnuts, bakery goods, beverages, apparel, promotional items, doughnut shop services, and related goods and services. The designation “KK” is also an abbreviation of the famous KRISPY KREME mark.

2. As a result of Krispy Kreme’s long and continuous use of the KK Marks in connection with its goods and services, and as a consequence of Krispy Kreme’s extensive advertising, promotion, distribution and sale of goods and services under its KK Marks, the consuming public and the trade have come to recognize, and do recognize, the KK Marks as being used by Krispy Kreme or by a single source, and associate and identify the goods and services offered and sold under the KK Marks with Krispy Kreme or with a single source. Krispy Kreme consequently derives an invaluable goodwill and value from this recognition, association, and identification by the consuming public and the trade.

3. Opposer owns the following registrations for the KK Marks on the Principal Register of the United States Patent and Trademark Office, together with all right, title and interest in the marks shown therein, and all of the business and goodwill represented thereby (collectively the “KK Registrations”):

Trademark	Reg. Number	Reg. Date	Goods and/or Services
	939,105	25-Jul-72	Restaurant services
	2,003,276	24-Sept-96	Clothing, namely sweatshirts, t-shirts

4. The KK Registrations remain valid, subsisting and uncanceled, and have become incontestable pursuant to 15 U.S.C. § 1065 by virtue of long and continuous use.

5. By the application opposed herein, Applicant seeks to register the LOVE KK Mark, in block letters, on the Principal Register for use in connection with “[b]athing suits, shoes, shirts, pants, sweat shirts, skirts, tank tops, undershirts, socks” in International Class 25.

6. Because of the high degree of inherent and acquired distinctiveness of the KK Marks, the length of time and extent to which Krispy Kreme has used the KK Marks, the advertising and publicity the KK Marks have received, the substantial trading area in which the KK Marks are used, and the high degree of consumer recognition of the KK Marks, the KK Marks are well-known and strong trademarks, deserving of a broad scope of legal protection.

7. Applicant’s LOVE KK Mark is confusingly similar in sight, sound, meaning and commercial impression to Krispy Kreme’s KK Marks.

8. The goods identified in U.S. Trademark App. Ser. No. 77/204,480 for Applicant’s LOVE KK Mark are highly related and, in some instances, identical to the goods on or in connection with which Krispy Kreme has previously used the KK Marks.

9. Applicant’s LOVE KK Mark is confusingly similar in sight, sound, meaning and commercial impression to the registered marks shown in the KK Registrations.

10. The goods identified in U.S. Trademark App. Ser. No. 77/204,480 for Applicant’s LOVE KK Mark are highly related and, in some instances, identical to the goods identified in the KK Registrations.

11. The LOVE KK Mark, when used in connection with Applicant’s goods as identified in the subject application, so resembles Krispy Kreme’s previously used KK Marks as to be likely to cause confusion, mistake, and/or to deceive consumer concerning an affiliation,

connection, association or sponsorship with the source of goods and services sold under the KK Marks, in violation of 15 U.S.C. § 1052(d), with consequent injury to Krispy Kreme, the public, and the trade.

12. The LOVE KK Mark, when used in connection with Applicant's goods as identified in the subject application, so resembles the previously registered trademarks shown in the KK Registrations as to be likely to cause confusion, mistake, and/or to deceive consumers concerning an affiliation, connection, association or sponsorship with the source of goods and services sold under the trademarks shown in the KK Registrations, in violation of 15 U.S.C. § 1052(d), with consequent injury to Krispy Kreme, the public, and the trade.

13. Pursuant to 15 U.S.C. § 1063(a), Krispy Kreme believes that it will be damaged by the registration of Applicant's LOVE KK Mark in that a substantial portion of the purchasing public and/or the trade is likely to be confused, or mistakenly to believe, that Applicant's goods offered under the LOVE KK Mark originate from Krispy Kreme, or from the same source as goods and services sold under the KK Marks or the registered marks shown in the KRISPY KREME Registrations, or that such services are sponsored by, endorsed by, or affiliated with the source of goods and services sold under Krispy Kreme's KK Marks or the registered mark shown in the KK Registrations. Such likelihood of confusion would result in damage to the goodwill among purchasers and the trade that the KK Marks symbolize. Registration of Applicant's LOVE KK Mark will support and assist Applicant in the confusing and misleading use of Applicant's LOVE KK Mark, and, in addition, will give color and exclusive statutory right to Applicant in violation and derogation of prior and superior rights of Krispy Kreme.

**WHEREFORE**, Opposer believes it will be damaged by registration of Applicant's LOVE KK Mark and prays that such registration not be allowed.

The required fee for instituting this opposition proceeding is included herewith. Please charge any deficiency or refund in the filing fee to Deposit Account No. 16-1435.

Please recognize George L. Little, Jr., William M. Bryner, Laura C. Miller and the law firm of Kilpatrick Stockton LLP as attorneys for Krispy Kreme in connection with this opposition proceeding. Please address all correspondence regarding this proceeding to William M. Bryner at Kilpatrick Stockton LLP, 1001 West Fourth Street, Winston-Salem, NC 27101.

This the 26<sup>th</sup> day of March, 2008.

A handwritten signature in dark ink, appearing to read 'G. Little', is written over a horizontal dotted line.

George L. Little, Jr.  
William M. Bryner  
Laura C. Miller

Attorneys for HDN Development Corporation

Kilpatrick Stockton LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101  
Telephone: (336) 607-7300

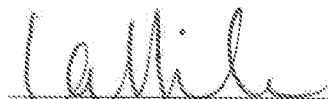
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KEALANI RINEHART,	)	Mark: LOVE KK
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Applicant.	)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION  
has been served on Applicant Kealani Rinehart by mailing said copy on March 26, 2008, via  
First Class Mail, postage prepaid, and addressed as follows:

Kealani Rinehart  
20743 Big Rock Drive  
Malibu, CA 90265

  
\_\_\_\_\_  
Laura C. Miller

Attorney for Opposer  
HDN Development Corp.